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August 30, 2012

Board of Supervisors
GLORIA MOLINA
First District

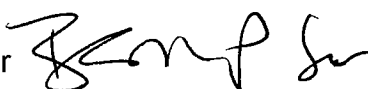
MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer 

MOTION BY SUPERVISOR RIDLEY-THOMAS TO: 1) SUPPORT LEGISLATION TO ELIMINATE PROHIBITIONS ON ACCESS TO SERVICES FOR INDIVIDUALS CONVICTED OF FELONY OFFENSES THAT HAVE SUCCESSFULLY SERVED COURT-ORDERED SENTENCES; 2) SUPPORT EFFORTS TO IDENTIFY LAWS THAT CREATE UNNECESSARY BARRIERS FOR THIS POPULATION; AND 3) SEND A LETTER TO THE COUNTY'S DELEGATION TO SUPPORT AB 828, (AGENDA ITEM 3, MEETING OF SEPTEMBER 4, 2012)

Item No. 3 on the September 4, 2012 Agenda is an item continued from the August 14, 2012 Board meeting, which is a motion by Supervisor Ridley-Thomas to direct the following:

1. Direct the County's legislative advocates in Washington, D.C. and Sacramento to "support legislation that eliminates lifetime prohibitions on access to job training, human services and voting rights for those who have been convicted of felony offenses and have successfully served court-ordered sentences, and are making a sincere effort to re-integrate into the community." The Board-approved State and Federal Legislative Agendas do not contain specific policies related to this item. **Therefore, inclusion of this policy in the County's Legislative Agendas is a matter for Board determination.**
2. Direct the County's Federal and State legislative advocates to "support efforts to identify the laws, regulations, and policies that may create unnecessary barriers

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to employing people with criminal records.” The Board-approved State and Federal Legislative Agendas do not contain specific policies related to this item. **Therefore, inclusion of this policy in the County’s Legislative Agendas is a matter for Board determination.**

3. Send a letter to the County’s State legislative delegation, recommending support for measures such as AB 828, the Nutrition Assistance for Families in Recovery Act. As reported in the August 17, 2012 Sacramento Update to the Board, AB 828 failed passage from the Senate Appropriations Committee on August 16, 2012 and will not proceed this year. **Therefore, no action is necessary at this time on this item.**

Recommendations on Items No. 1 and 2 of the Motion

As indicated above, the Board-approved State and Federal Legislative Agendas do not contain specific policies related to recommendations in the motion which call for: 1) support of legislation that eliminates lifetime prohibitions on access to job training and voting rights for those convicted of felony offenses who have successfully served court-ordered sentences; and 2) support efforts to identify laws, regulations, and policies that may create unnecessary barriers to employing people with criminal records. **Therefore, inclusion of these two policies in the County’s Legislative Agendas is a matter for Board policy determination.**

While the County’s Legislative Agendas do not contain specific policies related to the access to programs and the employment of individuals with criminal records, the State Legislative Agenda contains Policy No. 10.2.9 which states:

Support a statewide safety net for families in which a member may be disqualified from receiving Temporary Assistance for Needy Families (TANF) benefits due to drug-related convictions, if that family member has successfully completed a qualified drug rehabilitation program and remains drug free.

If the Board approves recommendations one and two of the motion, our office will include these policies in the 2013-14 Legislative Agenda. This office is presently working with all County Departments and Commissions on the development of the 2013-14 Legislative Agenda and will be able to update the Agenda as necessary.

Consistent with the essence of the motion, this office worked with a number of County Departments to identify some of the existing lifetime prohibitions, if any, on access to job training, mental health counseling, voting rights, human services and health programs, and housing programs for individuals who have been convicted of felony

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offenses and have successfully served court-ordered sentences in order to provide the Board a reference of existing laws, regulations and policies that may create barriers to employing people with criminal records. Attached is an overview of examples of lifetime prohibitions and existing barriers relating to these issues identified by Departments.

Recommendation No. 3 - Status of AB 828 (Swanson)

AB 828 (Swanson), as amended on June 13, 2012, would have allowed an individual convicted of any drug-related felony to be eligible to receive Federal CalFresh benefits if certain conditions were met, such as the completion of a government-recognized drug treatment program, subsequent to the most recent drug-related conviction. Specifically, this bill would have amended State law to opt out of the current Federal ban which prohibits individuals convicted of drug felonies from receiving these benefits. Under AB 828, no individual convicted of a drug felony (including distribution and sales crimes) would have been automatically deemed ineligible for CalFresh benefits without condition.

As reported in the August 17, 2012 Sacramento Update to the Board, AB 828 failed passage from the Senate Appropriations Committee on August 16, 2012 and will not proceed this year. **Therefore, no action is necessary at this time on this item.**

AB 828 is identical to AB 1756 (Swanson) of 2010 and similar to AB 1198 (Swanson) of 2009, which failed passage from the Senate Appropriations Committee, among other previous measures.

We will continue to keep you advised.

WTF:RA
MR:OR:ma

c: Executive Office, Board of Supervisors
County Counsel

EXAMPLES OF LIFETIME PROHIBITIONS ON ACCESS TO PROGRAMS BY INDIVIDUALS CONVICTED OF FELONY OFFENSES

The following is an overview of examples of lifetime prohibitions and existing barriers identified by Departments relating to access to job training, mental health counseling, voting rights, human services and health programs, and housing programs for individuals convicted of felony offenses.

Job Training Programs

The Department of Community and Senior Services indicates that employment and training programs under the Federal Workforce Investment Act do not have lifetime prohibitions on access to services for individuals convicted of felony offenses.

Voting Rights

The Registrar-Recorder indicates that restoring voting rights for post-felony conviction is currently allowed under California law. Once an individual has completed their sentence and is no longer on parole, they would simply need to re-register to exercise their voting rights.

Mental Health Counseling Programs

The Department of Mental Health indicates that currently there are no State or Federal regulations that prohibit the Department from serving individuals with felony convictions.

Human Services and Health Programs

According to the Department of Public Social Services, the following are examples of lifetime prohibitions on access to human services and health programs.

CalFresh. Under Federal and State laws, there are lifetime prohibitions on access to CalFresh benefits for the following:

- Individuals fleeing to avoid prosecution, custody or confinement after conviction of a crime or attempt to commit a crime;
- Individuals who are in violation of a condition of probation or parole imposed under a Federal or State law; and
- Individuals convicted in a State or Federal court of a felony that has an element of transporting, importing into the State, selling, furnishing, administering, giving away, possessing for sale, purchasing for the purposes of sale, manufacturing, or processing precursors with the intent to manufacture a controlled substance or cultivating, harvesting, or processing marijuana. The conviction must be after August 22, 1996.

However, effective January 1, 2005, under California law, individuals convicted of felony use or possession for personal use of a controlled substance after August 22, 1996, may be eligible to receive CalFresh benefits, if they can provide proof of one of the following:

- Completion of a government-recognized drug treatment program;
- Participation in a government-recognized drug treatment program;
- Enrollment in a government-recognized drug treatment program;
- Placement on a waiting list for a government-recognized drug treatment program;
- Ceased the use of controlled substances and have evidence that the use of controlled substances have ceased; or
- The conviction was reduced to a misdemeanor under Proposition 36 following completion of a drug rehabilitation program.

If a previously entered judgment resulting in a felony drug conviction is reduced to a misdemeanor or the record is expunged, the individual becomes eligible for CalFresh from the date of the reduction or date of record expungement. However, eligibility is not retroactive.

CalWORKs. Under Federal and State laws, there are lifetime prohibitions on access to CalWORKs benefits for the following:

- Individuals fleeing to avoid prosecution, custody or confinement after the conviction of a crime or attempt to commit a crime that is a felony;
- Individuals in violation of a condition of probation or parole; and
- Individuals convicted in a State or Federal court of a felony that has an element, the possession, use or distribution of a controlled substance. The conviction must be after December 31, 1997.

If a previously entered judgment resulting in a felony drug conviction is reduced to a misdemeanor or the record is expunged, the individual becomes eligible for CalWORKs from the date of the reduction or date of record expungement. However, eligibility is not retroactive. There is no eligibility prior to the date the conviction was reduced or record expunged. Also, if a minor is tried and convicted as an adult of a drug felony in a criminal court proceeding, the minor would be ineligible for CalWORKs.

Medi-Cal. There are no ineligibility laws for drug felons and fleeing felons under the Medi-Cal Program. However, under Federal and State laws, Medi-Cal beneficiaries who subsequently violate their parole/probation and return to jail are discontinued from Medi-Cal benefits.

Housing

According to the Community Development Commission (CDC), certain Federal statutes place restrictions on the admission of individuals with a criminal record to Federally assisted housing. In the context of screening individuals with a criminal record, Federally assisted housing refers to public housing, the voucher program, project-based Section 8, among other programs. For example, there is a permanent ban on admission if an individual is convicted of manufacturing or producing methamphetamines on the premises of Federally assisted housing. The ban is limited to public housing, the voucher program, and Section 8 Moderate Rehab. Additionally, CDC notes that there is a permanent ban on admission if an individual is subject to a lifetime registration requirement under a state sex offender registration law.